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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,557	11/24/2003	John Lee Hammons	9130M	4853
27752 7590 09/19/2007 THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION - WEST BLDG. WINTON HILL BUSINESS CENTER - BOX 412 6250 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER HAND, MELANIE JO	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,557

Applicant(s)

HAMMONS ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on February 28, 2007.

Response to Arguments

Applicant's arguments filed August 18, 2006 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding the rejection of claim 1 as anticipated by Osborn: Applicant argues that Osborn does not disclose a facing layer comprising a first region comprising a plurality of apertures and a second region comprising a plurality of out-of-plane deformations. Applicant is referred to Fig. 12 and Col. 16, lines 12-17 where Osborn teaches a facing layer in the form of topsheet 38 that is comprised of an apertured film. Applicant is further referred to the embodiment of Fig. 74, described in Col. 66, lines 40-57. The embodiment of Fig. 74 has a central second region 32 wherein a nonextensible element 216 is placed on top of the core 42, i.e. between the core 42 and topsheet 38. The element fits snugly against the topsheet 38 and is comprised of longitudinally extending ribs. Thus the apertured topsheet 38 also comprises a second region comprising a plurality of out-of-plane deformations defined by the ribs of element 216. Since the second region is set forth with open-ended "comprising" claim language in claim 1, the second region of Osborn having apertures and deformations is acceptable and anticipates the claim limitation regarding the facing layer. It is noted that this is a different embodiment that is used to show that Osborn anticipates claim 1 and in no way is an

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admission to the contrary. The rejection of claim 1 has been restated to include this embodiment.

With respect to applicant's arguments regarding the rejection of claims 6-8, 10-13, 15 and 16 as unpatentable over Osborn: As to applicant's argument that Fig. 18 does not teach a deep-embossed channel, this argument can also be addressed in light of the embodiment of Fig. 74. The ribs of the element 216 define channels therebetween. These channels are not explicitly taught by Osborn as being deep-embossed, however the same motivation given in the rejection of claim 6 as written applies to the embodiment of Fig. 74. The rejection has been restated to include this embodiment.

The balance of applicant's arguments depend either upon applicant's arguments with respect to the rejections of either claim 1 or claim 6, both of which have been addressed *supra*.

Applicant's argument's regarding the prior art of Rajala, alone or in combination with Anderson, are moot in view of the withdrawal of claims 18-20 from consideration by the examiner.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5, 9, 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Osborn, III et al (U.S. Patent No. 5,824,004).

With respect to **Claims 1,3-5**: Osborn teaches napkin 20 having a longitudinal axis characterized by longitudinal centerline L, longitudinal edges 22, a transverse axis characterized

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by transverse centerline T, and a thickness measured in a direction orthogonal to the plane defined by the centerlines T, L. Napkin 20 has topsheet 38 which joined to backsheet 40 and absorbent core 42 disposed therebetween. Topsheet 38 is comprised of an apertured film. Applicant is further referred to the embodiment of Fig. 74, described in Col. 66, lines 40-57. The embodiment of Fig. 74 has a central second region 32 wherein a nonextensible element 216 is placed on top of the core 42, i.e. between the core 42 and topsheet 38. The element fits snugly against the topsheet 38 and is comprised of longitudinally extending ribs. Thus the apertured topsheet 38 also comprises a second region comprising a plurality of out-of-plane deformations defined by the ribs of element 216. Since the second region is set forth with open-ended "comprising" claim language in claim 1, the second region of Osborn having apertures and deformations is acceptable and anticipates the claim limitation regarding the facing layer. (Figs. 12,74, Col. 16, lines 12-17, Col. 65, lines 16-22, Col. 66, lines 40-57)

With respect to **Claim 2,9,14**: Osborn teaches a secondary topsheet in Fig. 6 in the form of a wicking layer 46. (Fig. 6) (Col. 9, lines 23-26)

With respect to **Claim 17**: As can be seen in Fig. 82, Osborn teaches that ribs 272 possess a length that is at least 1% of the entire length of the napkin.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 6-8, 10-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III et al (U.S. Patent No. 5,824,004).

With respect to **Claims 6,7,12,15**: As can be seen in Fig. 74, the ribs of the element 216 in central region 32 define channels therebetween. Osborn also does not explicitly teach a thickness for said channel, however Examiner asserts that the thickness is at least 1% of the thickness of the napkin, as the channel is formed from at least one component of the napkin. Osborn does not explicitly teach that the channels defined by said element 216 are deep-embossed. It would be obvious to one of ordinary skill in the art to form a deep embossed channel by bonding element 216 to topsheet 38, the apertures in topsheet 38 together with the bonds define deep embossing points, as said channels and said embossing points provide a flow guiding means for exudate.

With respect to **Claims 8,10,11,13,16**: Please see the rejections of claims 1 and 6 as these rejections collectively address all of the limitations of Claims 8,10,11, 13 and 16.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
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September 14, 2007

TATYANA ZALUKAEVA
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', with a long, sweeping horizontal stroke extending to the right.